

Assembly Bill No. 182

Passed the Assembly September 6, 2013

Chief Clerk of the Assembly

Passed the Senate September 3, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 15146 of, and to add Sections 15140.5, 15144.1, 15144.2, and 15144.3 to, the Education Code, and to add Sections 53508.5 and 53508.6 to the Government Code, relating to bonds.

LEGISLATIVE COUNSEL'S DIGEST

AB 182, Buchanan. Bonds: school districts and community college districts.

(1) Existing law authorizes the governing board of any school district or community college district to order an election and submit to the electors of the district the question whether the bonds of the district should be issued and sold to raise money for specified purposes. Existing law requires the bonds to bear a rate of interest that does not exceed 8% per annum and requires the number of years the whole or any part of the bonds are to run to not exceed 25 years.

This bill would require the ratio of total debt service to principal for each bond series to not exceed 4 to one. The bill would require each bond, as defined, that allows for the compounding of interest, including, but not limited to, a capital appreciation bond, maturing more than 10 years after its date of issuance to be subject to redemption before its fixed maturity date, as specified, beginning no later than the 10th anniversary of the date the bond was issued. The bill would authorize a school district or community college district with a note issued before December 31, 2013, to seek from the State Board of Education or the Chancellor of the California Community Colleges, as applicable, a one-time waiver from certain requirements of this bill if 2 specified conditions are satisfied.

(2) Existing law requires the governing board of a school district or community college district, before the sale of bonds, to adopt a resolution as an agenda item at a public meeting that includes specified information.

This bill would require, if the sale includes bonds that allow for the compounding of interest, including, but not limited to, capital appreciation bonds, the agenda item to identify that bonds that allow for the compounding of interest are proposed and require

the governing board of the school district or community college district to be presented with specified information concerning the bonds. The bill would require the resolution to be publicly noticed on at least 2 consecutive meeting agendas, first as an information item and 2nd as an action item.

(3) Additionally and alternatively to the authority described above, existing law authorizes the legislative body of an issuer, by resolution, to provide for the issuance of bonds or refunding bonds.

This bill would provide that bonds issued pursuant to this authority by a school district or community college district that do not allow for the compounding of interest may have a maturity that is greater than 30 years, but not greater than 40 years, if certain requirements are satisfied. The bill would require a school district or community college district that intends to issue bonds that allow for the compounding of interest, including, but not limited to, capital appreciation bonds, pursuant to this authority to conform the bond issuance to certain requirements otherwise applicable to bonds issued by a school district or community college district pursuant to the authority specified in (1), above.

The people of the State of California do enact as follows:

SECTION 1. Section 15140.5 is added to the Education Code, to read:

15140.5. For purposes of this article, “bonds” means bonds, notes, warrants, or other evidence of indebtedness payable, both principal and interest, from the proceeds of ad valorem property taxes that may be levied without limitation as to rate or amount upon property subject to taxation by the governing board of the school district or community college district.

SEC. 2. Section 15144.1 is added to the Education Code, to read:

15144.1. The ratio of total debt service to principal for each bond series shall not exceed four to one.

SEC. 3. Section 15144.2 is added to the Education Code, to read:

15144.2. A bond that allows for the compounding of interest, including, but not limited to, a capital appreciation bond, maturing more than 10 years after its date of issuance shall be subject to

redemption before its fixed maturity date, with or without a premium, at any time, or from time to time, at the option of the issuer, beginning no later than the 10th anniversary of the date the bond that allows for the compounding of interest was issued.

SEC. 4. Section 15144.3 is added to the Education Code, to read:

15144.3. A school district or community college district with a note issued before December 31, 2013, pursuant to Section 15150 may seek from the state board or the Chancellor of the California Community Colleges, as applicable, a one-time waiver from one or more of the requirements of Sections 2, 3, 5, and 6 of Assembly Bill 182 of the 2013–14 Regular Session, if both of the following are satisfied:

(a) The proceeds of the issuance subject to the waiver will be used only for the purpose of paying the note.

(b) The school district or community college district has provided to the state board or the Chancellor of the California Community Colleges, as applicable, an analysis from a financial adviser unaffiliated with the school district, the community college district, or the underwriter used by the school district or community college district, showing the total overall costs of the proposed bond, how the issuance is the most cost-effective method, and the reasons why the school district or community college district is unable to meet those requirements of Sections 2, 3, 5, and 6 of Assembly Bill 182 of the 2013–14 Regular Session that are the subject of the waiver.

SEC. 5. Section 15146 of the Education Code is amended to read:

15146. (a) The bonds shall be issued and sold pursuant to Section 15140, payable out of the interest and sinking fund of the district. The governing board may sell the bonds at a negotiated sale or by competitive bidding.

(b) (1) Before the sale, the governing board shall adopt a resolution, as an agenda item at a public meeting, that includes all of the following:

(A) Express approval of the method of sale.

(B) Statement of the reasons for the method of sale selected.

(C) Disclosure of the identity of the bond counsel, and the identities of the bond underwriter and the financial adviser if either or both are used for the sale, unless these individuals have not been

selected at the time the resolution is adopted, in which case the governing board shall disclose their identities at the public meeting occurring after they have been selected.

(D) Estimates of the costs associated with the bond issuance.

(E) If the sale includes bonds that allow for the compounding of interest, including, but not limited to, capital appreciation bonds, disclosure of the financing term and time of maturity, repayment ratio, and the estimated change in the assessed value of taxable property within the school district or community college district over the term of the bonds.

(2) If the sale includes bonds that allow for the compounding of interest, including, but not limited to, capital appreciation bonds, the resolution shall be publicly noticed on at least two consecutive meeting agendas, first as an information item and second as an action item.

(c) If the sale includes bonds that allow for the compounding of interest, including, but not limited to, capital appreciation bonds, the agenda item shall identify that bonds that allow for the compounding of interest are proposed and the governing board shall be presented with all of the following:

(1) An analysis containing the total overall cost of the bonds that allow for the compounding of interest.

(2) A comparison to the overall cost of current interest bonds.

(3) The reason bonds that allow for the compounding of interest are being recommended.

(4) A copy of the disclosure made by the underwriter in compliance with Rule G-17 adopted by the federal Municipal Securities Rulemaking Board.

(d) After the sale, the governing board shall do both of the following:

(1) Present the actual cost information for the sale at its next scheduled public meeting.

(2) Submit an itemized summary of the costs of the bond sale to the California Debt and Investment Advisory Commission.

(e) The governing board shall ensure that all necessary information and reports regarding the sale or planned sale of bonds by the district it governs are submitted to the California Debt and Investment Advisory Commission in compliance with Section 8855 of the Government Code.

(f) The bonds may be sold at a discount not to exceed 5 percent and at an interest rate not to exceed the maximum rate permitted by law. If the sale is by competitive bid, the governing board shall comply with Sections 15147 and 15148. The bonds shall be sold by the governing board no later than the date designated by the governing board as the final date for the sale of the bonds.

(g) The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the building fund of the school district, or community college district as designated by the California Community Colleges Budget and Accounting Manual. The proceeds deposited shall be drawn out as other school moneys are drawn out. The bond proceeds withdrawn shall not be applied to any purposes other than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the school district or community college district.

(h) The governing board may cause to be deposited proceeds of sale of any series of the bonds in an amount not exceeding 2 percent of the principal amount of the bonds in a costs of issuance account, which may be created in the county treasury or held by a fiscal agent appointed by the school district or community college district for this purpose, separate from the building fund and the interest and sinking fund of the district. The proceeds deposited shall be drawn out on the order of the governing board or an officer of the district duly authorized by the governing board to make the order, only to pay authorized costs of issuance of the bonds. Upon the order of the governing board or duly authorized officer, the remaining balance shall be transferred to the county treasury to the credit of the building fund of the school district or community college district. The deposit of bond proceeds pursuant to this subdivision shall be a proper charge against the building fund of the school district or community college district.

(i) The governing board may cause to be deposited proceeds of sale of any series of the bonds in the interest and sinking fund of the district in the amount of the annual reserve permitted by Section 15250 or in any lesser amount, as the governing board shall determine from time to time. The deposit of bond proceeds pursuant to this subdivision shall be a proper charge against the building fund of the school district or community college district.

(j) The governing board may cause to be deposited proceeds of sale of any series of the bonds in the interest and sinking fund of the district in the amount not exceeding the interest scheduled to become due on that series of bonds for a period of two years from the date of issuance of that series of bonds. The deposit of bonds proceeds pursuant to this subdivision shall be a proper charge against the building fund of the school district or community college district.

SEC. 6. Section 53508.5 is added to the Government Code, to read:

53508.5. Notwithstanding any other law and except as provided in Section 53508.6, a school district or community college district that intends to issue bonds that allow for the compounding of interest, including, but not limited to, capital appreciation bonds, pursuant to this article shall comply with the requirements of Sections 15143, 15144, 15144.1, and 15144.2, and subdivisions (b) and (c) of Section 15146, of the Education Code.

SEC. 7. Section 53508.6 is added to the Government Code, to read:

53508.6. Notwithstanding any other law, a school district or community college district may, pursuant to this article, issue bonds that do not allow for the compounding of interest and that have a maturity greater than 30 years, but not greater than 40 years, if the school district or community college district does both of the following:

(a) Complies with the requirements of subdivisions (b) and (c) of Section 15146 of the Education Code.

(b) Makes a finding that the useful life of the facility financed with the bonds that do not allow for the compounding of interest and that have a maturity greater than 30 years, but not greater than 40 years, equals or exceeds the maturity date of those bonds.

Approved _____, 2013

Governor